

From: [Patterson, Robin L CIV OPNAV, DNS-36](#)
To: (b) (6) [CTR OPNAV, DNS-36; DONFOIA-PA](#)
Subject: FW: [Non-DoD Source] Fwd: Privacy Violation - Scheduling Access to Medical Records for Robert Hammond
Date: Wednesday, August 30, 2017 11:14:40

File copy. No navy equities

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: (b) (6) @aol.com [[mailto:\(b\) \(6\) @aol.com](mailto:(b) (6) @aol.com)]
Sent: Tuesday, August 29, 2017 5:40 PM
To: (b) (6) @mail.mil; (b) (6) @mail.mil; (b) (6) @mail.mil
Cc: (b) (6) iv@mail.mil; (b) (6) @mail.mil; (b) (6) @dha.mil;
(b) (6) @mail.mil; (b) (6) @mail.mil; (b) (6) @med.navy.mil;
(b) (6) @mail.mil; (b) (6) @mail.mil; voiceofthecustomer@dha.mil;
(b) (6) @mail.mil; (b) (6) @health.mil; (b) (6) @mail.mil;
(b) (6) @mail.mil; (b) (6) @mail.mil; (b) (6) @mail.mil;
(b) (6) @health.mil; (b) (6) @mail.mil; (b) (6) @greenspringlegal.com;
(b) (6) @mail.mil
Subject: [Non-DoD Source] Fwd: Privacy Violation - Scheduling Access to Medical Records for Robert Hammond

Dear Mr. Tillotson, Vice Admiral Bono, Captain Kobelja,

A DoD policy statement, followed by action on the part of DHA/Walter Reed is needed.

DHA/Walter Reed has not granted my request to have a disk-copy of the Original 2012 DVD of my medical records MADE FOR ME in my presence together with a photocopy of the front-side disk label from which the disk-copy is made. Additionally, DHA/Walter Reed has not replied to the email below affirming that the DVD from which such copy would be made is the Original 2012 DVD, nor therein provided the basis for such affirmation.

My access should be the same as any other patron, should it not?

The Privacy Act states:

ACCESS TO RECORDS.—Each agency that maintains a system of records shall— (1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and HAVE A COPY MADE of all or any portion thereof IN A FORM COMPREHENSIBLE TO HIM, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence."

- What is the DOD policy/position on my request to have a DVD disk-copy MADE FOR ME?
- What is the DOD policy/positon regarding medical record files being stored outside of an accountable system of medical records?
- Will DHA/Walter Reed MAKE A DISK-COPY FOR ME in my presence together with a photocopy of the

front-side disk label, affirm that the DVD from which such copy will be made is the Original 2012 DVD and state the basis for such affirmation?

I am respectfully asking for a reply from ODCMO, DHA/Walter Reed in this same email thread by your designee(s) acting on your behalf under your direction by Tuesday, August 5, 2017.

Thank you in advance.

With my deep respect,

Robert Hammond

Copy to: Multiple

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail.mil>; (b) (6) @mail mil>;
(b) (6) @mail mil>
Cc: (b) (6) mail mil>; (b) (6) @mail mil>; aenglish
<(b) (6) @greenspringlegal.com>; (b) (6) @mail.mil>;
(b) (6) @mail.mil>; (b) (6) @mail.mil>;
(b) (6) @mail mil>; (b) (6) @health.mil>;
(b) (6) @mail.mil>; (b) (6) @mail mil>

Sent: Thu, Aug 24, 2017 6:10 am

Subject: Re: Re: Privacy Violation - Scheduling Access to Medical Records for Robert Hammond

Dear Vice Admiral Bono, Rear Admiral Chin, Colonel Heimall, I am requesting that on Thursday, September 7, 2017 at 1100, I be given access to observe Walter Reed Medical Records Department personnel make a disk-copy of the Original 2012 DVD of my medical records (used by Ms. (b) (6) in May 2012 to reconcile the records that Walter Reed had provided to me to that time), together with a photocopy of the front side disk label from which the disk-copy is made. This request is in accordance with the Privacy Act and should be in the same manner as for any other patron, as discussed below.

I will not be removing the DVD from which the copy is made. I will be accompanied by Mr. English.

I am asking that you, Rear Admiral Chin, Colonel Heimall (or your designee acting on your behalf under your direction) affirm that the DVD from which the disk copy will be made is that Original 2012 DVD and identify the basis for such affirmation. Ms. (b) (6) properly sent the DVD labeled HIPPA [HIPAA] to Medical Records Department in 2012 to be safeguarded under strict access control.

Please provide the DHA/Walter Reed reply in this same email thread. Please reply by August 28, 2017. Thank you.

With my deep respect,

Robert Hammond

In a message dated 7/7/2017 5:28:36 PM Eastern Standard Time, (b) (6) @aol.com writes:

Dear Vice Admiral Bono, Rear Admiral Chin, Colonel Heimall,

In over seven months neither Walter Reed nor DHA have ever timely responded to any of my numerous proposed dates and times to access the Original 2012 DVD of my medical records and have a disk copy made in my presence (as prescribed by the Privacy Act). Moreover, neither Walter Reed nor DHA ever confirmed that the DVD to which I would be given access is the Original 2012 DVD.

Please timely advise me of the case number assigned to my Privacy Act complaint of this matter and advise me of the results of your inquiry.

Please ensure that the Original 2012 DVD of my medical records is returned to the Medical Records

Department to be safeguarded within Walter Reed's/DHA's accountable Privacy Act-accredited system of records, as published in the Federal Register and identified in any system of record notice (see <http://open.defense.gov/Transparency/Privacy-Act-and-Records>).

With my deep respect,

Robert Hammond

Copy to: Multiple

In a message dated 7/1/2017 2:54:24 PM Eastern Standard Time, (b) (6) @aol.com writes:

Dear Vice Admiral Bono,

With deep respect, neither Walter Reed nor DHA have ever timely responded to my multiple requests to access and have made in my presence (along with Mr. English) a disk copy of the Original 2012 DVD of my medical records, along with a photo copy image of the front side disk label.

Additionally, neither Walter Reed nor DHA have ever affirmed that the DVD from which such copies will be made is the Original 2012 DVD, as discussed in my letter correspondence to Colonel Heimall.

By way of background, after notifying MG Clark about certain questionable medical procedures, potential inaccurate and incomplete official entries in my medical records and Walter Reed's withholding of my complete medical records, by letter dated August 13, 2012 letter Captain Brooks D. Cash, stated, "You provided Ms. (b) (6) (b) (6) with a CD which contained the records of your December 2011 hospitalization. She printed the 153 pages of records and then compared them with your electronic record. You have received every page of your [December 2011] hospitalization's medical record." Captain Cash's statement is (incomprehensibly) incorrect; Walter Reed withheld the significant medical records identified below that had already been printed in February 2012. Then, by letter, dated August 28, 2012 Captain Cash further stated, "the CD [Original 2012 DVD] which you shared with Ms. (b) (6) Healthcare Resolutions Specialist, have been returned to our Medical Records Department." That is the Original 2012 DVD.

With deep respect, as the Director of Defense Health Agency, please personally affirm, or have Rear Admiral Chinn affirm, that the DVD from which such disk copy and label photo copy image will be made is the Original 2012 DVD. Please also ensure that my access request is timely granted next week.

My dates and times of availability are; Wednesday, July 5 at 1300; Thursday July 6 at 1030; Friday July 7 at 1030.

With my deep respect,
Robert Hammond

In a message dated 6/30/2017 7:02:49 AM Eastern Standard Time, (b) (6) @aol.com writes:

Dear Vice Admiral Bono,

With my deep respect, would you please intercede in this matter to grant my medical records access request for today at 1300, as stated below?

I first requested this access on November 28, 2016 – seven months ago. Please also address this refusal to grant timely access as a reportable Privacy Act violation complaint, pursuant to Section 803 of Public Law 110-53.

Please note that the attachment to my email of yesterday contains Privacy Act protected information intended only for the specific addressees; please do not further disseminate it.

My access to view and have a disk copy made of the Original 2012 DVD of my medical records by Walter Reed staff should be the same as would be the case for any other patron. It should be in Walter Reed's Medical Records Department, who must insure that the disk copy is made from the Original 2012 DVD that Captain Cash sent to them.

I am also extremely concerned that Ms. Bizzell, or anyone else, may be storing the Original 2012 DVD of my medical records (or any other medical records) outside of Walter Reed's official Privacy Act-accredited system of records. Is this this is a common, permitted practice? Has anyone else ever been directed to the FOIA office to access and have a copy made of an official medical record file artifact? With respect, please have your staff separately address this matter near term and advise both me and Ms. Chung.

In a related matter (for context) Major General Jeffrey B. Clark (Walter Reed's then Director), you would be aware of this matter, as I wrote to you in 2012, notifying you that Walter Reed had not released my medical records, pursuant to my prior multiple, official requests for them. Walter Reed's failure to provide such records led to the creation of the Original 2012 DVD, documenting which medical records Walter Reed had provided to that point for Ms. (b) (6) to reconcile. Among other things, I advised you, that, "Notably, the partial records that I have been given have many missing pages and several requested records were not provided at all [doctor's orders, etc]. For example, only 12 of 30 Physicians notes and 19 of 27 Nursing notes were provided."

Subsequently, more than a year later, on June 11, 2013, Ms. Judy J. Bizzell released some additional records to me that are not among those released to me in 2012. Among those records that were released on June 11, 2013 (which are referenced below by Walter Reed's hand-numbered page numbers in Walter Reed's the June 11, 2013 FOIA/PA response) are:

* Orders for labs, treatments, medications, diagnostics, etc. documenting medical treatment decisions and actions that were printed at: "Wed Feb 8 13:14:11 2012," but not previously provided to me. Walter Reed hand-numbered these pages #283-286.

* Cross Reference of treating healthcare provider initials in my medical records to full names, also printed: "Wed Feb 8 13:14:11 2012," but not previously provided to me. Walter Reed hand-numbered this page #287.

* December 2011 hospitalization RECORD OF INPATIENT TREATMENT that was printed on 13 Feb 2012@0646, but not previously provided to me. Walter Reed hand-numbered these pages #160 and #161. Significantly, in the Record of Inpatient Treatment of my December 2011 hospitalization, the attending provider grossly miss-certified the principal diagnosis. Walter Reed subsequently had to amend this record, which took until November 2014 to correct and required both Congressional involvement and involvement of the DHA Director, Rear Admiral R. C. Bono. Moreover, the Office of the Secretary of Health and Human Services staff cited Walter Reed/DHA for multiple HIPAA Privacy Rule violations in the processing of that amendment request. HHS also directed corrective actions, which still have not been completed years after they were directed.

Thank you.
With my deep respect,
Robert Hammond

Copy to: Multiple others

From: (b) (6) @aol.com
To:
Cc: (b) (6) @mail.mil, (b) (6) @mail.mil,
(b) (6) @mail.mil, (b) (6) @mail.mil, (b) (6) @greenspringlegal.com
Sent: 6/29/2017 1:15:19 PM Eastern Standard Time
Subject: Re: Fwd: [Non-DoD Source] Scheduling Access to Medical Records for

Robert Hammond

Dear Colonel Heimall and Rear Admiral Chin,

With respect, please see the below emails of June 28, 2017 1:27 PM from my attorney, Mr. English, and Mr. Cygnarowicz's reply from this morning.

At 1300 tomorrow (June 30, 2017) I would like to view the original 2012 DVD of medical records, which I provided to Ms. (b) (6) in May 2012, and which you previously stated was in the Medical Records Department (where Captain Books D. Cash, Walter Reed's then Deputy Commander for Medicine, sent it in 2012 to be safeguarded, and where it presumably should have remained). I will be accompanied by Mr. English, and we will seek to have a disk copy of the DVD made by your staff in our presence in the Medical Records Department.

Please advise Ms. Judy J. Bizzell (FOIA Officer), Mr Joseph E. Davidge (Privacy/HIPAA/FOIA Division Chief) and your current medical Medical Records Department Supervisor. Please also make the appropriate arrangements and advise me by return email today of your Inpatient Medical Records Department room number.

Thank you in advance.

With my respect,

Robert Hammond

In a message dated 6/29/2017 10:59:30 AM Eastern Standard Time, (b) (6) @greenspringlegal.com writes:

Hi, Bob -

Just got this from Cygnarowicz.

Best,
Alex

----- Forwarded message -----

From: Cygnarowicz, Paul T CIV (US) <(b) (6) @mail mil>
Date: Thu, Jun 29, 2017 at 10:36 AM
Subject: RE: [Non-DoD Source] Scheduling Access to Medical Records for

Robert Hammond

To: Alexander English <(b) (6) @greenspringlegal.com>

Mr. English,

Alex, I am in Germany at the moment serving Army reserve duty on an 18-day mission. I do not have regular computer access just yet and I borrowed a connection just now to access my DHA email. Sorry, I did not get your request earlier.

I will forward the request to Judy Bizzell and Joe Davidge. Judy has the original DVD. That's where it is and that is where he can come copy it. I would like to be there to meet you both, but I have to be here through July 14, 2017.

Sincerely,
Paul Cyg

From: Alexander English [(b) (6) @greenspringlegal.com
<[mailto:\(b\) \(6\) @greenspringlegal.com](mailto:(b) (6) @greenspringlegal.com)>]

Sent: Wednesday, June 28, 2017 5:27 PM
To: Cygnarowicz, Paul T CIV (US)
Subject: [Non-DoD Source] Scheduling Access to Medical Records for Robert

Hammond

Mr. -

My client, Robert Hammond, and I would like to come to the Walter Reed Medical Records Department on Thursday, June 29, at 1100; 1330 would also be acceptable. If this Thursday is not possible, then we would like to visit on Friday, June 30 at 1330. The purpose of this visit is to obtain a disc copy, made in our presence, of the DVD of medical records that Mr. Hammond provided to Ms. (b) (6) in May of 2012, as discussed in the attached correspondence from Mr. Hammond ("Attachment"), along with a photocopy of the label thereof.

Mr. Hammond cited the Privacy Act requirement that he be given access to this record in his letter dated November 28, 2016; specifically, 5 U.S.C. § 552a(d)(1). (Attachment at 21 - 22). Page 20 of the Attachment is a completed DD Form 2870, which has been redacted for purposes of this email. As noted in Mr. Hammond's prior correspondence, (Attachment at 1), we do not intend to remove any records from Walter Reed's custody, excepting those copies which are made in our presence.

Mr. Hammond seeks to have the aforementioned copy made in the Medical Records Department, where Colonel Heimall has stated that the records were maintained and safeguarded, and where they presumably should have remained. Mr. Hammond wants said records safeguarded within Walter Reed's Privacy Act-accredited Medical Records system, which has implemented an electronically recorded disclosure accounting record of who accesses his medical records and when. See, e.g., 5 U.S.C. § 552a(c). Mr. Hammond has sought and received such disclosure accounting records pertaining to Walter Reed staff on several occasions.

If possible, please let me know whether or not we can make such a visit by close of business today.

Best Regards,
Alex

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Alexander J. E. English, Esq.
Owner/President
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